

From: Hicks, Matt [Hicks.Matthew@epa.gov]
Sent: 11/15/2018 6:18:41 PM
To: Palmer, Leif [Palmer.Leif@epa.gov]
CC: Ghosh, Mita [Ghosh.Mita@epa.gov]
Subject: FL Assumption Status
Attachments: FL - Issues and Qs for FWS on 11-9 MOA draft (002).docx

Leif,

Ex. 6 Personal Privacy (PP) but wanted to provide my weekly update on 404 assumption.

We had our recurring EPA/DOI Working Group meeting yesterday where we discussed DOI/FWS's proposed revisions to the 5-way MOA. DOI/FWS did a complete re-write of the 5-way MOA (save for some minor language here and there) which took the EPA team by surprise. In addition to starting from scratch, the items that concern EPA the most are: (1)

Ex. 5 AC/DP

Rosemary talked to Heather Mason yesterday and the status of the rulemaking is that they are waiting on the DEP Secretary to sign off before it goes to OFARR. The OFARR review takes a week and then it goes out for the 30-day Notice of Proposed Rulemaking (21 days for comment + 7 days for public meeting and response to comments).

In terms of the state deliverables for a complete 404 assumption package, not much has changed except I've downgraded the 5-way MOA completeness number given the current state of the negotiations. I've indicated in red where there's been a change since the last email I sent. As before, this is a very rough estimate of completeness based on what we've seen/heard from the state (i.e., the state may be further along than we know). Completeness includes not just how close the state is to having final drafts but how close they are to getting review/signatures/buy-in from necessary parties. On the EPA/DEP and Corps/DEP MOAs, it assumes the state and the Corps will accept with few edits our proposed changes that we recently transmitted.

- Letter from Governor requesting program approval Ex. 5 Deliberative Process (DP)
- Complete program description Ex. 5 Deliberative Process (DP)
- Attorney General's statement Ex. 5 Deliberative Process (DP)
- EPA/DEP MOA Ex. 5 Deliberative Process (DP)
- Corps/DEP MOA Ex. 5 Deliberative Process (DP)
- Copies of all applicable state statutes and regulations, including those governing applicable state administrative procedures Ex. 5 Deliberative Process (DP)

The 5-way MOA is not a required component per the 404 assumption regulations but it is something that will be part of FL's program so we've attempted to assign it a completeness number as well. Unlike the other two MOAs, this number does not assume the other parties will accept our language because we haven't even approached the other parties (NMFS, Corps, DEP) about the MOA.

- 5-way MOA [Ex. 5 Deliberative Process (DP)]

[Ex. 6 Personal Privacy (PP)] and tomorrow's my CDO but please call me on my cell if you want to talk [Ex. 6 Personal Privacy (PP)]

Thanks,

Matt